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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	79096002
Applicant	Fashion Box S.P.A.
Applied for Mark	RED SEAL
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Submission	Applicant's Motion to Suspend
Attachments	Response to Suspension Inquiry from Board.pdf(936223 bytes)
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Date	06/20/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Applicant:	Fashion Box S.P.A.	Examining Attorney: Jennifer Vasquez
Serial No.:	79/096,002	TM Law Office: 113
Filed:	December 16, 2010	Date: June 20, 2014
Mark:	RED SEAL & Design	
Docket:	456/1148	

Trademark Trial and Appeal Board
Commissioner of Trademarks
P.O. Box 1451
Alexandria, Virginia

RESPONSE TO STATUS UPDATE REGARDING CIVIL LITIGATION

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This is in response to the status inquiry issued by the Board on May 21, 2014 in conjunction with the instant matter. On August 6, 2013, Applicant and The Wet Seal, Inc. (the parties that were involved in the civil action referenced in Applicant's Request for Suspension of Appeal filed on May 1, 2013 in the instant Appeal proceedings) entered into a settlement agreement regarding the registrability of the application that is the subject of the instant Appeal, and on August 12, 2013 the parties filed a stipulation to dismiss the civil action filed against Applicant **without prejudice**. The fact that the stipulation to dismiss the proceedings was without prejudice is relevant, as for reasons that will be detailed herein, The Wet Seal is entitled, under certain scenarios to re-file its action for trademark infringement against Applicant regarding the mark that is the subject of the instant Appeal proceedings.

Pursuant to the terms of the Settlement Agreement, the parties agreed that Applicant may seek registration for an alternate stylized mark containing the words "RED SEAL", namely, RS RED SEAL THE ORIGIN (stylized), which was filed under U.S. Serial No. 86/051,465. In the event that registration of this newly filed application filed under Serial No. 86/051,465 is obtained, pursuant to the agreement between Applicant and the Wet Seal, Inc., Applicant will voluntarily withdraw its stylized RED SEAL application filed under U.S. Serial No. 79/096,002 that is the subject of the instant Appeal, which would of course make the instant Appeal moot. In the event that a registration is not obtained with respect to the RS RED SEAL THE ORIGIN (stylized) mark, which was filed under U.S. Serial No. 86/051,465, the settlement agreement between the parties will be considered null and void, and The Wet Seal would potentially be permitted to reinstitute its action for trademark infringement against Applicant for its use of the RS RED SEAL mark that is the subject of the instant Appeal.

Accordingly, in the interest of judicial economy, while there continues to be a potential cloud hanging over the ability of Applicant to use and/or register the stylized RED SEAL mark that is the subject of the instant Appeal for reasons stated herein, Applicant submits that the most efficient step for the Board to take at this time would be to simply keep the instant Appeal in suspension while prosecution of the RS RED SEAL THE ORIGIN (stylized) mark, which was filed under U.S. Serial No. 86/051,465, continues to be ongoing. Applicant respectfully requests that the Board contact the undersigned with any questions with respect to this matter.

Respectfully submitted,



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